

Bulletin 49

UNFAIR CLAIM PRACTICES

March 27, 1985

Recent consumer phone calls to this department on the subject of automobile claim practices have raised a concern regarding possible unfair settlement practices. Specifically, it has been brought to our attention that a number of insurers authorized to write property and casualty insurance in this state may be arbitrarily assigning a percentage of fault to all claimants seeking first or third party recovery on auto insurance policies. In the opinion of this department, any arbitrary assignment of fault, which ignores the statutory definition of comparative fault or the particular facts of the accident, represents an unfair claims settlement practice.

The following example represents what we feel is an arbitrary assignment of fault and thus an unfair settlement practice. An insured driver runs a red light and hits the claimant vehicle located in the middle of the intersection. After filing the claim, the insurer advises the claimant that 20% fault has been assigned to his action without identifying any negligent conduct on the part of the claimant.

This department cautions all insurers to review their settlement practices and applicable Indiana law to eliminate possible unfair practices. By virtue of this bulletin, any violations of the type described above found in a formal hearing will be considered to be knowing violations.

Don H. Miller
INSURANCE COMMISSIONER

Withdrawn